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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,833	10/05/2000	Kouichi Miyamoto	AA307F	4304

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,833

Applicant(s)

MIYAMOTO ET AL.

Examiner

Jacqueline F Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. The request filed on 6/12/03 for a Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09647833 is acceptable and an RCE has been established. An action on the RCE follows.

Response to Arguments

2. Applicant's arguments filed 6/12/03 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 3-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has amended claim 1 to include the limitation "wherein the reinforcement nonwoven does not extend the entire longitudinal length of the absorbent article". Applicant has relied on Figure 2a of the disclosure for support of the limitation. However, Figure 2a as described in the disclosure depicts a lateral cross-section of the absorbent article (page 3, lines 4-5) and can not be relied on to show the relationship of the reinforcement nonwoven to the longitudinal length of the article of the present invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1 and 3-11 are rejected under 35 U.S.C. 102(a) as being anticipated by Saisaka et al. USPN 5624424.

Regarding claim 1, Saisaka discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Figures 1 and 2). The containment assembly

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comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Figures 7 and 8) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (at area **8**, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region;

(c) a pair of front ear panels (at area **8**, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven **22** joined to an inner-facing surface of the backsheet (col. 11, lines 33-53 and Figure 7) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. As shown in Figure 15 of Saisaka, the entire longitudinal length of the article includes the waist elastics 44/42, which extend further longitudinally than the reinforcement nonwoven (encompassed in element 2 – includes 10, 20, 21, and 22 Figure 5).

Regarding claims 3, 4, and 5, see Figures 6 and 7.

Regarding claims 6 and 7, Saisaka discloses the reinforcement nonwoven **22** further comprises a strip of continuous material joined to the longitudinal edges of the containment assembly (Figure 6).

Regarding claim 8, see Figures 6 and 7.

Regarding claim 9, see Figure 6.

Regarding claim 10, Saisaka discloses the barrier leg cuff and the reinforcement nonwoven comprises hydrophobic nonwoven material (col. 5, line 65 through col. 6, line 3; and the following references which set forth the materials for the non-elastic nonwoven - col. 6, lines 38-45; col. 9, lines 62-65; and col. 10, lines 61-65; and col. 11, lines 33-53).

Regarding claim 11, Saisaka discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Figures 7 and 8) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (at area **8**, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region;

(c) a pair of front ear panels (at area **8**, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

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(d) a reinforcement nonwoven **22** joined immediately adjacent to an inner-facing surface of the backsheet (col. 11, lines 33-53 and Figure 7) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. The reinforcement nonwoven provides topsheet-like benefits in that the reinforcement nonwoven is liquid permeable (col. 7, lines 59-65).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saisaka in view of Osborn, III et al. USPN 5346486. Saisaka discloses the present invention substantially as claimed. However, Saisaka does not disclose the reinforcement nonwoven having a tensile strength of at least 80gf/cm in the traverse direction of the absorbent article. Osborn discloses an absorbent article having reinforced side cuffs with a tensile strength of not more than 900 grams the benefit of providing an elastomeric material has lateral stability and prevents unintended lateral displacement of the absorbent article (col. 9, line 55 through col. 10, line 6). It would have been obvious to one having ordinary skill in the art at the time the article was made to modify the article of Saisaka to have the claimed tensile strength in the reinforcement nonwoven for the benefits disclosed in Osborn.

Saisaka/Osborn discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Figures 7 and 8) having a proximal edge

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and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (at area 8, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region;

(c) a pair of front ear panels (at area 8, Figure 7) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;


(d) a reinforcement nonwoven 22 joined immediately adjacent to an inner-facing surface of the backsheet (col. 11, lines 33-53 and Figure 7) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. The reinforcement nonwoven has a tensile strength of at least 80 gf/cm in the traverse direction (486 col. 9, line 53 through col. 10, line 6).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Jacqueline F Stephens 
Examiner
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June 29, 2003


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